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HOUSE BILL 664

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO REGULATION OF HORSE RACING; ENACTING THE HORSE RACING ACT; PROVIDING FOR LICENSING AND REGULATION OF HORSE RACING; PROVIDING FOR COOPERATIVE COMPLETION OF BACKGROUND INVESTIGATIONS; DISTRIBUTING PROCEEDS FROM PARI-MUTUEL WAGERS; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 60-1A-1 NMSA 1978 is enacted to read:

"60-1A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 60, Article 1A NMSA 1978 may be cited as the "Horse Racing Act"."

Section 2. A new Section 60-1A-2 NMSA 1978 is enacted to read:

"60-1A-2. [NEW MATERIAL] DEFINITIONS.--As used in the

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1 Horse Racing Act:

2 A. "board" means the gaming control board;

3 B. "breakage" means the odd cents by which the  
4 amount payable on each dollar wagered exceeds a multiple of  
5 ten;

6 C. "commission" means the state racing commission;

7 D. "exotic wagering" means all wagering other than  
8 on win, place or show, through pari-mutuel wagering;

9 E. "export" means to send a live audiovisual  
10 broadcast of a horse race in the process of being run at a  
11 horse racetrack from the originating horse racetrack to another  
12 location;

13 F. "guest state" means a jurisdiction, other than  
14 the jurisdiction in which a horse race is run, in which a horse  
15 racetrack, off-track wagering facility or other facility that  
16 is a member of and subject to an interstate common pool is  
17 located;

18 G. "guest track" means a horse racetrack, off-track  
19 wagering facility or other licensed facility in a location  
20 other than the state in which a horse race is run that is a  
21 member of and subject to an interstate common pool;

22 H. "handle" means the total of all pari-mutuel  
23 wagering sales, excluding refunds and cancellations;

24 I. "horse race" means a competition among  
25 racehorses on a predetermined course in which the horse

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1 completing the course in the least amount of time generally  
2 wins;

3 J. "host state" means the jurisdiction within which  
4 a sending track is located, also known as a "sending state";

5 K. "host track" means the horse racetrack from  
6 which a horse race subject to an interstate common pool is  
7 transmitted to members of that interstate common pool, also  
8 known as a "sending track";

9 L. "import" means to receive a live audiovisual  
10 broadcast of a horse race;

11 M. "interstate common pool" means a pari-mutuel  
12 pool that combines comparable pari-mutuel pools from one or  
13 more locations that accept wagers on a horse race run at a  
14 sending track for purposes of establishing payoff prices at the  
15 pool members' locations, including pools in which pool members  
16 from more than one state simultaneously combine pari-mutuel  
17 pools to form an interstate common pool;

18 N. "jockey club" means an organization that  
19 administers thoroughbred registration records and registers  
20 thoroughbreds;

21 O. "licensed premises" means land, together with  
22 all buildings, other improvements and personal property located  
23 on the land, that is under the direct control of a racetrack  
24 licensee, including the restricted areas, grandstand and public  
25 parking areas;

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1           P. "licensee" means a person licensed by the  
2 commission and includes a holder of an occupational, secondary  
3 or racetrack license;

4           Q. "occupational license" means a license issued by  
5 the commission to a vendor or to a person having access to a  
6 restricted area on the licensed premises, including a horse  
7 owner, trainer, jockey, agent, apprentice, groom, exercise  
8 person, veterinarian, valet, farrier, starter, clocker, racing  
9 secretary, pari-mutuel clerk and other personnel designated by  
10 the commission whose work, in whole or in part, is conducted  
11 around racehorses or pari-mutuel betting windows;

12           R. "pari-mutuel wagering" means a system of  
13 wagering in which bets on a live or simulcast horse race are  
14 pooled and held by the racetrack licensee for distribution of  
15 the total amount, less the deductions authorized by law, to  
16 holders of winning tickets; "pari-mutuel wagering" does not  
17 include bookmaking or pool selling;

18           S. "pari-mutuel wagering pool" means the money  
19 wagered on a specific horse race through pari-mutuel wagering;

20           T. "practical breeder" means a person who has  
21 practical experience in breeding horses, although the person  
22 may not be actively involved in breeding horses;

23           U. "primary residence" means the domicile where a  
24 person resides for most of the year, and, if the person is  
25 temporarily out of state, the address where a person will

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1 return when the person returns to New Mexico or the address  
2 that a person uses for purposes of a driver's license, passport  
3 or voting;

4 V. "quarter horse" means a racehorse that is  
5 registered with the American quarter horse association or any  
6 successor association;

7 W. "race meet" means a period of time within dates  
8 specified by the commission in which a racetrack licensee is  
9 authorized to conduct live racing on the racing grounds;

10 X. "racehorse" means a quarter horse or  
11 thoroughbred that is bred and trained to compete in horse  
12 races;

13 Y. "racetrack license" means a license to conduct  
14 horse races issued by the commission;

15 Z. "racetrack licensee" means a person who has been  
16 issued a racetrack license;

17 AA. "racing grounds" means the area of the  
18 restricted area of licensed premises used for the purpose of  
19 conducting horse races and all activities ancillary to the  
20 conduct of horse races, including the track, stable area,  
21 jockey's quarters and horse training areas;

22 BB. "retainage" means money that is retained from  
23 wagers on win, place and show and on exotic wagers by a  
24 racetrack licensee pursuant to the Horse Racing Act;

25 CC. "restricted areas" means the stable area, the

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1 area behind the pari-mutuel betting windows and anywhere on the  
2 racing grounds;

3 DD. "secondary licensee" means all officers,  
4 directors, shareholders, lenders or holders of evidence of  
5 indebtedness of a corporation or legal entity owning a horse  
6 racetrack, and all persons holding a direct or indirect  
7 interest of any nature whatsoever in the horse racetrack,  
8 including interests or positions that deal with the funds of  
9 the racetrack or that are administrative, policymaking or  
10 supervisory;

11 EE. "simulcast" means a transmission of a live  
12 audiovisual broadcast of a horse race being run at a horse  
13 racetrack other than the horse racetrack or other licensed  
14 facility at which the broadcast is being received for viewing  
15 pursuant to a simulcasting contract;

16 FF. "stakes race" means a horse race in which  
17 nominations or entry or starting fees contribute to the purse;  
18 an overnight race is not a stakes race;

19 GG. "steward" means an employee of the commission  
20 who supervises horse races and oversees a race meet while in  
21 progress, including holding hearings regarding licensees and  
22 enforcing the rules of the commission and the horse racetrack;

23 HH. "takeout" means amounts authorized by statute  
24 to be deducted from the pari-mutuel wagers;

25 II. "thoroughbred" means a racehorse that is

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1 registered with the jockey club;

2 JJ. "track" means the surfaced oval area on which  
3 horse races are conducted; and

4 KK. "vendor" means a person who provides goods or  
5 services to or in the racing grounds or restricted area of the  
6 licensed premises of a horse racetrack."

7 Section 3. A new Section 60-1A-3 NMSA 1978 is enacted to  
8 read:

9 "60-1A-3. [NEW MATERIAL] COMMISSION CREATED--APPOINTMENT  
10 OF MEMBERS--TERMS OF OFFICE.--

11 A. The "state racing commission" is created and is  
12 administratively attached to the tourism department.

13 B. The commission shall consist of five members, no  
14 more than three of whom shall be members of the same political  
15 party. The commission members shall be appointed by the  
16 governor and be confirmed by the senate. All members of the  
17 commission shall hold at-large positions on the commission.

18 C. At least three of the members of the commission  
19 shall be practical breeders of racehorses within New Mexico.

20 D. A commission member shall have primary residence  
21 in New Mexico and shall be of high character and reputation so  
22 that public confidence in the administration of horse racing is  
23 maintained.

24 E. The term of each member of the commission shall  
25 be six years from the date of the member's appointment. The

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1 member shall serve until a successor is appointed. In the case  
2 of a vacancy in the membership of the commission, the governor  
3 shall fill the vacancy by appointment for the unexpired term.

4 F. A person shall not be eligible for appointment  
5 as a member of the commission who is an officer, official or  
6 director in a corporation conducting horse racing within the  
7 state.

8 G. Members of the commission shall receive no  
9 salary, but each member of the commission shall receive per  
10 diem and mileage pursuant to the Per Diem and Mileage Act.

11 H. The commission may appoint an executive director  
12 and establish the executive director's duties and  
13 compensation."

14 Section 4. A new Section 60-1A-4 NMSA 1978 is enacted to  
15 read:

16 "60-1A-4. [NEW MATERIAL] COMMISSION--POWERS--DUTIES.--

17 A. The commission may:

18 (1) grant, deny, suspend or revoke  
19 occupational licenses, secondary licenses and racetrack  
20 licenses, establish the terms for each classification of a  
21 racetrack license and set fees for submitting an application  
22 for a license;

23 (2) exclude or compel the exclusion of a  
24 person from all horse racetracks who the commission deems  
25 detrimental to the best interests of horse racing or who

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1 willfully violates the Horse Racing Act, a rule or order of the  
2 commission or a law of the United States or New Mexico;

3 (3) compel the production of documents, books  
4 and tangible items, including documents showing the receipts  
5 and disbursements of a racetrack licensee;

6 (4) investigate the operations of a licensee  
7 and place a designated representative on the licensed premises  
8 of a racetrack licensee for the purpose of observing compliance  
9 with the Horse Racing Act and rules or orders of the  
10 commission;

11 (5) employ staff as required to administer the  
12 Horse Racing Act and employ staff with basic law enforcement  
13 training to be stationed at racetracks to maintain peace and  
14 order, enforce the law, conduct investigations and enforce the  
15 Horse Racing Act or rules or orders of the commission; provided  
16 that staff employed with law enforcement training may not carry  
17 firearms or other deadly weapons while on duty for the  
18 commission;

19 (6) summon witnesses;

20 (7) administer oaths for the effective  
21 discharge of the commission's authority; and

22 (8) appoint a hearing officer to conduct  
23 hearings required by the Horse Racing Act or a rule adopted  
24 pursuant to that act.

25 B. The commission shall:

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1                   (1) make rules to hold, conduct and operate  
2 all race meets and horse races held in the state and to  
3 identify and assign racing dates;

4                   (2) require the following information for each  
5 applicant on an application for a license:

6                   (a) the full name, address and contact  
7 information of the applicant, and if the applicant is a  
8 corporation, the name of the state of incorporation and the  
9 names, addresses and contact information of officers, members  
10 of the board of directors and managers of the corporation;

11                   (b) the exact location at which the  
12 applicant desires to conduct a horse race or race meet;

13                   (c) whether the horse racetrack is owned  
14 or leased, and, if leased, the name and residence of the fee  
15 owner of the land or, if the owner is a corporation, the names  
16 of the directors and stockholders;

17                   (d) a statement of the assets and  
18 liabilities of the person or corporation making the  
19 application;

20                   (e) the kind of racing to be conducted;

21                   (f) the beginning and ending dates  
22 desired for the race meet and the days during that time period  
23 when horse races are to be scheduled; and

24                   (g) other information determined by the  
25 commission to be necessary to assess the potential for success

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1 of the applicant;

2 (3) require a statement under oath by the  
3 applicant that the information on the application is true;

4 (4) supervise and oversee the making of pari-  
5 mutuel pools and the distribution from those pools;

6 (5) make on-site inspections of horse  
7 racetracks in New Mexico at reasonable intervals;

8 (6) approve all improvements proposed to be  
9 completed on the licensed premises of a horse racetrack,  
10 including extensions, additions or improvements of buildings,  
11 stables or tracks;

12 (7) monitor and oversee the pari-mutuel  
13 machines and equipment at all horse races or race meets held in  
14 the state;

15 (8) approve contracts for simulcasting, pari-  
16 mutuel wagering and capital improvements funded pursuant to  
17 Section 60-1A-20 NMSA 1978 entered into by horse racetracks;

18 (9) regulate the size of the purses to be  
19 offered at horse races run in the state;

20 (10) require background investigations of  
21 employees of a racetrack licensee as set forth in the rules of  
22 the commission; and

23 (11) provide an annual report to the governor  
24 regarding the commission's administration of horse racing in  
25 the state."

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1           Section 5. A new Section 60-1A-5 NMSA 1978 is enacted to  
2 read:

3           "60-1A-5. [NEW MATERIAL] COMMISSION RULES--ALL LICENSES--  
4 SUSPENSION, REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

5           A. The commission shall adopt rules to implement  
6 the Horse Racing Act and to ensure that horse racing in New  
7 Mexico is conducted with fairness and that the participants and  
8 patrons are protected against illegal practices on the racing  
9 grounds.

10           B. Every license issued by the commission shall  
11 require the licensee to comply with the rules adopted by the  
12 commission. A racetrack licensee shall post printed copies of  
13 the rules in conspicuous places on the racing grounds and shall  
14 maintain them during the period when live horse races are being  
15 conducted.

16           C. The commission may suspend, revoke or deny  
17 renewal of a license of a person who violates the provisions of  
18 the Horse Racing Act or rules adopted pursuant to that act.  
19 The commission shall provide a licensee facing suspension,  
20 revocation or denial of renewal of a license reasonable notice  
21 and an opportunity for a hearing. The suspension, revocation  
22 or denial of renewal of a license shall not relieve the  
23 licensee from prosecution for the violations or from the  
24 payment of fines and penalties assessed the licensee by the  
25 commission.

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1           D. The commission may impose civil penalties upon a  
2 licensee for a violation of the provisions of the Horse Racing  
3 Act or rules adopted by the commission. The fines shall not  
4 exceed ten thousand dollars (\$10,000) for each violation and  
5 shall be paid into the current school fund."

6           Section 6. A new Section 60-1A-6 NMSA 1978 is enacted to  
7 read:

8           "60-1A-6. [NEW MATERIAL] CLASSIFICATION OF RACETRACK  
9 LICENSES.--

10           A. A license to conduct a race meet in New Mexico  
11 shall be classified as either a class A or class B license,  
12 determined by the commission as follows:

13                   (1) a class A racetrack license shall be  
14 issued to a racetrack licensee who received from all race meets  
15 in the preceding calendar year a gross amount wagered through  
16 the pari-mutuel system of ten million dollars (\$10,000,000) or  
17 more; and

18                   (2) a class B racetrack license shall be  
19 issued to a racetrack licensee who received from all race meets  
20 in the preceding calendar year a gross amount wagered through  
21 the pari-mutuel system of less than ten million dollars  
22 (\$10,000,000).

23           B. A new racetrack license to conduct a race meet  
24 in New Mexico shall be given a classification by the commission  
25 based on an estimate of the anticipated gross amounts projected

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1 to be received by the new racetrack licensee from all pari-  
2 mutuel wagering in the racetrack licensee's first full calendar  
3 year of racing. After the racetrack licensee's first full  
4 calendar year of racing, the commission shall review the  
5 classification and change it if necessary.

6 C. Each class of license is subject to all  
7 provisions of the Horse Racing Act, except as otherwise  
8 provided in that act. The commission shall adopt and  
9 promulgate rules necessary to provide for license  
10 classification."

11 Section 7. A new Section 60-1A-7 NMSA 1978 is enacted to  
12 read:

13 "60-1A-7. [NEW MATERIAL] ALL LICENSE APPLICATIONS--  
14 BACKGROUND INVESTIGATIONS--RULES.--

15 A. A person applying for a license pursuant to the  
16 Horse Racing Act shall submit to a background investigation to  
17 be conducted by the board. The commission and the board shall  
18 adopt rules to coordinate the manner in which the background  
19 investigations are conducted. The rules shall at minimum  
20 require that:

21 (1) an applicant for a license or license  
22 renewal shall submit two fingerprint cards to the commission,  
23 with one card to be submitted to the board for a statewide  
24 check and the other card to be submitted to the federal bureau  
25 of investigation for a nationwide check;

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1 (2) arrest record information from a law  
2 enforcement agency or the federal bureau of investigation and  
3 information obtained as a result of the background  
4 investigation conducted by the board is privileged and shall  
5 not be disclosed to persons not directly involved in the  
6 decision affecting the specific applicant;

7 (3) an applicant shall provide all of the  
8 information required by the commission; and

9 (4) the cost of the background investigation  
10 shall be paid by the applicant.

11 B. An applicant for a license who is denied the  
12 license by the commission shall have an opportunity to inspect  
13 and challenge the validity of the record on which the denial of  
14 the license was based."

15 Section 8. A new Section 60-1A-8 NMSA 1978 is enacted to  
16 read:

17 "60-1A-8. [NEW MATERIAL] RACETRACK LICENSES--  
18 APPLICATIONS--SPECIFIC REQUIREMENTS.--

19 A. It is a violation of the Horse Racing Act for a  
20 person to hold a public horse race or a race meet for profit or  
21 gain in any manner unless the person has been issued a  
22 racetrack license by the commission and has been authorized by  
23 the commission to hold the horse race or race meet on specific  
24 dates.

25 B. An application for a racetrack license shall be

1 submitted in writing on forms designated by the commission. An  
2 applicant shall affirm that information contained in the  
3 application is true and accurate. The application shall be  
4 signed by the applicant or the applicant's agent, and the  
5 signature shall be notarized.

6 C. A racetrack license shall be valid for a period  
7 not to exceed one year. The commission may renew a racetrack  
8 license upon expiration of the term of the license.

9 D. Renewal applications for racetrack licenses  
10 shall be filed no later than June 1 of each year. The race  
11 dates for the upcoming year shall be set by the commission  
12 after the commission receives all renewal applications.

13 E. An application shall specify the dates and days  
14 of the week of the race meet that the applicant is requesting  
15 the commission to approve.

16 F. An application shall be filed not less than  
17 sixty days prior to the first day the proposed horse race or  
18 race meet is to be held.

19 G. The fee for a new racetrack license issued  
20 pursuant to this section shall not exceed five thousand dollars  
21 (\$5,000).

22 H. The commission may schedule a date for a hearing  
23 on the application for a new racetrack license to determine the  
24 eligibility of the applicant pursuant to the Horse Racing Act  
25 or as needed for determining the eligibility for the renewal of

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1 a racetrack license. The applicant shall be notified of the  
2 hearing at least five days prior to the date of the hearing.  
3 The applicant has the right to present testimony in support of  
4 the application. Notice shall be mailed to the address of the  
5 applicant appearing upon the application for the racetrack  
6 license. Notice of the hearing date, time and location shall  
7 be postmarked by United States mail five days prior to the date  
8 of the hearing. Deposit of the hearing notice in United States  
9 mail constitutes notice.

10 I. If, after a hearing on the application, the  
11 commission finds the applicant ineligible pursuant to the  
12 provisions of the Horse Racing Act or rules adopted by the  
13 board, the racetrack license shall be denied.

14 J. If there is more than one application for a  
15 racetrack license pending at the same time, the commission  
16 shall determine the racing days that will be allotted to each  
17 successful applicant. Upon renewal, the commission shall  
18 determine the racing days that will be allotted to each  
19 applicant upon terms and conditions established by the  
20 commission.

21 K. A person shall not have a direct, indirect or  
22 beneficial interest of any nature, whether or not financial,  
23 administrative, policymaking or supervisory, in more than two  
24 horse racetracks in New Mexico. For purposes of this  
25 subsection, a person shall not be considered to have a direct,

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1 indirect or beneficial interest in a horse racetrack if the  
2 person owns or holds less than ten percent of the total  
3 authorized, issued and outstanding shares of a corporation that  
4 is licensed to conduct a race meet in New Mexico, unless the  
5 person has some other direct, indirect or beneficial interest  
6 of any nature, whether or not financial, administrative,  
7 policymaking or supervisory, in more than two licensed horse  
8 racetracks.

9 L. To determine interest held in a racetrack, to  
10 the extent that the interest is based on stock ownership:

11 (1) stock owned, directly or indirectly, by or  
12 for a corporation, partnership, estate or trust shall be  
13 considered as being owned proportionately by its shareholders,  
14 partners or beneficiaries;

15 (2) an individual shall be considered as  
16 owning the stock, directly or indirectly, if it is held by an  
17 immediate family member. For purposes of this paragraph, an  
18 "immediate family member" includes only the individual's  
19 siblings, spouse or children; and

20 (3) stock constructively owned by a person by  
21 reason of the application of Paragraph (1) of this subsection  
22 shall be considered to be actually owned by the person; and  
23 stock shall be constructively owned by an individual by reason  
24 of the application of Paragraph (2) of this subsection if the  
25 purpose of the constructive ownership is to make a person other

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1 than the individual applicant appear as the owner of the stock.

2 M. A corporation holding a racetrack license shall  
3 not issue to a person shares of its stock amounting to ten  
4 percent or more of the total authorized, issued and outstanding  
5 shares, and a corporation holding a racetrack license shall not  
6 issue shares of its stock that would, when combined with that  
7 stock transferee's existing shares owned, total more than ten  
8 percent of the total authorized, issued and outstanding shares  
9 of the corporation, unless:

10 (1) the corporation gives written notice to  
11 the commission at least sixty days before the contemplated  
12 stock transfer that the person to whom the stock is being  
13 transferred will become an owner of ten percent or more of the  
14 total authorized, issued and outstanding shares of the  
15 corporation; and

16 (2) the corporation receives written approval  
17 from the commission of the proposed transfer.

18 N. A determination made by the commission of a  
19 matter pursuant to this section shall be final and not subject  
20 to appeal."

21 Section 9. A new Section 60-1A-9 NMSA 1978 is enacted to  
22 read:

23 "60-1A-9. [NEW MATERIAL] SECONDARY LICENSES--  
24 APPLICATIONS--SPECIFIC REQUIREMENTS.--

25 A. A person who is actively and directly engaged in

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1 the administration of a horse racetrack, whether in a  
2 financial, administrative, policymaking or supervisory  
3 capacity, shall hold a secondary license issued by the  
4 commission.

5 B. An application for a secondary license shall be  
6 submitted in writing on forms designated by the commission. An  
7 applicant shall affirm that information contained in the  
8 application is true and accurate. The application shall be  
9 signed by the applicant or the applicant's agent, and the  
10 signature shall be notarized.

11 C. If an applicant for a racetrack license is a  
12 corporation, all officers, directors, lenders or holders of  
13 evidence of indebtedness of the corporation and all persons who  
14 participate in any manner in a financial, administrative,  
15 policymaking or supervisory capacity are required to hold a  
16 secondary license issued by the commission.

17 D. A person who owns or holds, directly, indirectly  
18 or beneficially, ten percent or more of the total authorized,  
19 issued and outstanding shares of a corporation that is a  
20 racetrack licensee is required to hold a secondary license  
21 issued by the commission. If the commission finds that a  
22 person who owns or holds, directly, indirectly or beneficially,  
23 ten percent or more of the total authorized, issued and  
24 outstanding shares of a corporation that is a racetrack  
25 licensee is unqualified to be issued a secondary license, the

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1 commission shall give notice of its finding to the corporation  
2 and to the person owning or holding the interest. The  
3 ineligible person shall without delay offer the shares to the  
4 corporation for purchase. If the corporation does not elect to  
5 purchase the shares, the person owning or holding the interest  
6 may offer the interest to other purchasers, subject to prior  
7 approval of the purchasers by the commission.

8 E. A secondary license shall be valid for a period  
9 not to exceed three years. The commission may renew a  
10 secondary license upon expiration of the term of the license.

11 F. The fee for a secondary license issued pursuant  
12 to this section shall not exceed five hundred dollars (\$500)."

13 Section 10. A new Section 60-1A-10 NMSA 1978 is enacted  
14 to read:

15 "60-1A-10. [NEW MATERIAL] OCCUPATIONAL LICENSES--  
16 APPLICATION--SPECIFIC REQUIREMENTS.--

17 A. A person required by the Horse Racing Act to  
18 have an occupational license shall apply for and may be issued  
19 an occupational license by the commission.

20 B. An application for an occupational license shall  
21 be submitted in writing on forms designated by the commission.  
22 An applicant shall affirm that information contained in the  
23 application is true and accurate. The application shall be  
24 signed by the applicant or the applicant's agent.

25 C. An occupational license shall be valid for a

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1 period not to exceed five years. The commission may renew an  
2 occupational license upon expiration of the term of the  
3 license.

4 D. The fee for an occupational license issued  
5 pursuant to this section shall not exceed one hundred dollars  
6 (\$100)."

7 Section 11. A new Section 60-1A-11 NMSA 1978 is enacted  
8 to read:

9 "60-1A-11. [NEW MATERIAL] GRANTING A LICENSE--STANDARDS.--

10 A. A license shall not be issued or renewed unless  
11 the applicant has satisfied the commission that the applicant:

12 (1) is of good moral character, honesty and  
13 integrity;

14 (2) does not have prior activities, criminal  
15 record, reputation, habits or associations that:

16 (a) pose a threat to the public  
17 interest;

18 (b) pose a threat to the effective  
19 regulation and control of horse racing; or

20 (c) create or enhance the dangers of  
21 unsuitable, unfair or illegal practices, methods and activities  
22 in the conduct of horse racing, the business of operating a  
23 horse racetrack or the financial activities incidental to  
24 operating a horse racetrack;

25 (3) is qualified to be licensed consistent

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1 with the Horse Racing Act;

2 (4) has sufficient business probity,  
3 competence and experience in horse racing as determined by the  
4 commission;

5 (5) has proposed financing that is sufficient  
6 for the nature of the license and from a suitable source that  
7 meets the criteria set forth in this subsection; and

8 (6) is sufficiently capitalized pursuant to  
9 standards set by the commission to conduct the business covered  
10 by the license.

11 B. The commission shall establish by rule  
12 additional qualifications for a licensee as it deems in the  
13 public interest.

14 C. A person issued or applying for an occupational  
15 license who has positive test results for a controlled  
16 substance or who has been convicted of a violation of a federal  
17 or state controlled substance law shall be denied a license or  
18 shall be subject to revocation of an existing license unless  
19 sufficient evidence of rehabilitation is presented to the  
20 commission.

21 D. If the commission finds that an applicant for an  
22 occupational license or an occupational licensee has been  
23 convicted of any of the provisions of Subsection E of this  
24 section, the applicant shall be denied the occupational license  
25 or the occupational licensee shall have the occupational

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1 license revoked. An occupational license shall not be issued  
2 by the commission to an applicant or occupational licensee for  
3 a period of five years from the date of denial or revocation  
4 pursuant to this subsection.

5 E. An occupational license shall be denied or  
6 revoked if the applicant or occupational licensee, for the  
7 purpose of stimulating or depressing a race horse or affecting  
8 its speed or stamina during a race or workout, is found to  
9 have:

10 (1) administered, attempted to administer or  
11 conspired to administer to a race horse, internally, externally  
12 or by injection, a drug, chemical, stimulant or depressant, or  
13 other foreign substances not naturally occurring in a race  
14 horse, unless the applicant or occupational licensee has been  
15 specifically permitted to do so by the commission or a steward;  
16 or

17 (2) attempted to use, used or conspired with  
18 others to use an electrical or mechanical device, implement or  
19 instrument, except an ordinary whip, unless the applicant or  
20 occupational licensee has been specifically permitted by the  
21 commission or a steward to use the device, implement or  
22 instrument.

23 F. The burden of proving the qualifications of an  
24 applicant or licensee to be issued or have a license renewed  
25 shall be on the applicant or licensee.

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1 G. A determination by the commission of a matter  
2 pursuant to this section shall be final and conclusive and not  
3 subject to appeal."

4 Section 12. A new Section 60-1A-12 NMSA 1978 is enacted  
5 to read:

6 "60-1A-12. [NEW MATERIAL] STEWARDS--POWERS--DUTIES.--  
7 There shall be three stewards, licensed and employed by the  
8 commission, to supervise each horse race meet. One of the  
9 stewards shall be designated the presiding official steward of  
10 the race meet. Stewards, other than the presiding official  
11 steward, shall be employed subject to the approval of the  
12 racetrack licensee. All stewards shall be licensed or  
13 certified by a nationally recognized horse racing organization.  
14 Stewards shall exercise those powers and duties prescribed by  
15 commission rules. A decision or action of a steward may be  
16 reviewed or reconsidered by the commission."

17 Section 13. A new Section 60-1A-13 NMSA 1978 is enacted  
18 to read:

19 "60-1A-13. [NEW MATERIAL] OFFICIAL CHEMIST--  
20 QUALIFICATIONS--DUTIES.--The commission shall designate at  
21 least one official chemist. An official chemist shall hold a  
22 doctorate degree in chemistry or a related field and shall be  
23 knowledgeable and experienced in the techniques used for  
24 testing the blood, urine and saliva of horses for drugs,  
25 chemicals, stimulants, depressants or other foreign substances

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1 not naturally occurring in a horse. The official chemist may  
2 be an employee of a private laboratory located in New Mexico or  
3 an employee of an agency of New Mexico. The official chemist  
4 shall exercise the duties prescribed by rules of the  
5 commission."

6 Section 14. A new Section 60-1A-14 NMSA 1978 is enacted  
7 to read:

8 "60-1A-14. [NEW MATERIAL] TESTING SPECIMENS.--

9 A. The commission shall adopt rules applying to the  
10 handling and testing of urine and other specimens identified by  
11 the commission to be taken from racehorses.

12 B. Each specimen taken from a racehorse shall be  
13 divided into two or more samples, and:

14 (1) one sample shall be tested by the  
15 commission or its designated laboratory in order to detect the  
16 presence of unauthorized drugs, chemicals, stimulants,  
17 depressants or other foreign substances not naturally occurring  
18 in a horse; and

19 (2) the second sample shall be forwarded by  
20 the commission to the scientific laboratory division of the  
21 department of health.

22 C. After an inconclusive or positive test result on  
23 the sample tested by the commission or its designated  
24 laboratory and upon a written request from the president,  
25 executive director or manager of the New Mexico horsemen's

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1 association on forms designated by the commission, the  
2 scientific laboratory division shall transmit the corresponding  
3 second sample to the New Mexico horsemen's association.

4 D. The scientific laboratory division shall keep  
5 all samples in a controlled environment for a period of at  
6 least three months.

7 E. The commission shall contract with an  
8 independent laboratory to maintain a quality assurance  
9 program."

10 Section 15. A new Section 60-1A-15 NMSA 1978 is enacted  
11 to read:

12 "60-1A-15. [NEW MATERIAL] PARI-MUTUEL WAGERING  
13 AUTHORIZED--GAMBLING STATUTES DO NOT APPLY.--

14 A. A racetrack licensee may conduct pari-mutuel  
15 wagering on live horse races or on simulcasted horse races.

16 B. Pari-mutuel wagering may be conducted only on  
17 the licensed premises where a live horse race is conducted or  
18 where a simulcast horse race is televised or projected on the  
19 racing grounds of the licensed premises of a racetrack  
20 licensee.

21 C. The sale to patrons present on the licensed  
22 premises of a racetrack licensee of pari-mutuel tickets or  
23 certificates is not gambling as defined in Section 30-19-2 or  
24 30-19-3 NMSA 1978.

25 D. Placing a wager while on the licensed premises

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1 of a racetrack licensee is not placing a bet pursuant to  
2 Section 30-19-1 NMSA 1978.

3 E. The licensed premises of a horse racetrack is  
4 not a gambling place as defined in Section 30-19-1 NMSA 1978."

5 Section 16. A new Section 60-1A-16 NMSA 1978 is enacted  
6 to read:

7 "60-1A-16. [NEW MATERIAL] SIMULCASTING.--

8 A. All simulcasting of horse races shall have prior  
9 approval of the commission, and the commission shall adopt  
10 rules concerning the simulcasting of horse races as provided in  
11 this section.

12 B. A racetrack licensee shall not be allowed to  
13 simulcast horse races unless that racetrack licensee offers a  
14 minimum of four live race days a week with at least nine live  
15 races each race day during its race meet.

16 C. The commission may permit exporting of a horse  
17 race being run by a racetrack licensee to another racetrack  
18 licensee within New Mexico or exporting of a horse race from a  
19 racetrack licensee to another location holding a pari-mutuel or  
20 gaming license that allows simulcasting of a horse race from  
21 outside of the state or jurisdiction that licenses that out-of-  
22 state facility.

23 D. The commission may permit importing by a  
24 racetrack licensee of horse races that are being run at  
25 racetracks outside of the state licensed by a host state.

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1           E. Pari-mutuel wagering on simulcast horse races  
2 shall be prohibited except on the licensed premises of a  
3 racetrack licensee on days when live horse racing occurs at the  
4 horse racetrack or on days when the racetrack licensee is  
5 importing a race meet from another New Mexico-licensed horse  
6 racetrack.

7           F. A New Mexico-licensed horse racetrack that is  
8 within a radius of eighty miles of any other New Mexico-  
9 licensed horse racetrack with a race meet in progress may only  
10 conduct pari-mutuel wagering on imported horse races if there  
11 is a written agreement between the two racetrack licensees  
12 allowing pari-mutuel wagering on imported horse races during  
13 the period of time that the live horse races are taking place."

14           Section 17. A new Section 60-1A-17 NMSA 1978 is enacted  
15 to read:

16           "60-1A-17. [NEW MATERIAL] INTERSTATE COMMON POOL  
17 WAGERING--AUTHORIZED.--

18           A. Subject to the federal Interstate Horseracing  
19 Act of 1978, the commission may permit a racetrack licensee to  
20 participate in interstate common pools. All provisions of the  
21 Horse Racing Act that govern pari-mutuel wagering apply to  
22 pari-mutuel wagering in interstate common pools except as  
23 otherwise provided in this section.

24           B. Daily pari-mutuel tax and daily capital outlay  
25 tax shall not be imposed upon amounts wagered in an interstate

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1 common pool other than upon amounts wagered within New Mexico.

2 C. Subject to prior approval of the commission, the  
3 following provisions apply when a racetrack licensee  
4 participates in interstate common pools on a horse race that  
5 originates outside of New Mexico:

6 (1) a racetrack licensee may combine its pari-  
7 mutuel pools at the host track and other locations. The types  
8 of wagering, takeout, distribution of winnings and rules of  
9 racing in effect for pari-mutuel pools at the host track shall  
10 govern wagers placed in New Mexico and merged into the  
11 interstate common pool. Breakage for interstate common pools  
12 shall be calculated in accordance with the rules governing the  
13 host track and shall be distributed in a manner agreed upon by  
14 the racetrack licensee in New Mexico and the host track;

15 (2) with the concurrence of the host track, an  
16 interstate common pool that excludes the host track may be  
17 formed with the racetrack licensee in New Mexico and other  
18 locations outside of the host state. When an interstate common  
19 pool is formed pursuant to this paragraph, the commission may  
20 approve types of wagering, takeout, distribution of winnings,  
21 rules of racing and calculation of breakage that are different  
22 from those that are in effect in New Mexico; provided that the  
23 rules are applied consistently to all persons in the interstate  
24 common pool;

25 (3) the racetrack licensee may deduct from

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1 retainage resulting from an interstate common pool a reasonable  
2 fee to be paid to the person conducting the horse race at the  
3 host track for the privilege of conducting pari-mutuel wagering  
4 on the race and participating in the interstate common pool and  
5 for payment of costs incurred to transmit the simulcast horse  
6 race; and

7 (4) provisions of New Mexico law or contracts  
8 governing the distribution of daily pari-mutuel tax and daily  
9 capital outlay tax and breeders' or other awards and purses  
10 from the takeout from wagers placed in New Mexico shall remain  
11 in effect for wagers placed in an interstate common pool;  
12 provided that if the commission approves an adjustment in the  
13 takeout rate, the distribution of the takeout within New Mexico  
14 shall be adjusted proportionately to reflect the adjustment in  
15 the takeout rate; and provided further that with the  
16 concurrence of the racetrack licensee and the organization  
17 representing a majority of the breeders, horsemen or other  
18 persons entitled to shares of the distribution and subject to  
19 approval of the commission, the respective shares to breeders'  
20 or other awards or purses may be modified.

21 D. Subject to prior approval of the commission, the  
22 following provisions apply when a racetrack licensee in New  
23 Mexico participates in interstate common pools as a host track:

24 (1) a racetrack licensee may permit one or  
25 more of its horse races to be used for pari-mutuel wagering at,

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1 and may export a horse race to, one or more licensed sites  
2 outside of New Mexico. The racetrack licensee may also permit  
3 pari-mutuel pools in other locations to be combined with the  
4 racetrack licensee's comparable pari-mutuel wagering pools or  
5 with wagering pools established in other jurisdictions. The  
6 commission may modify its rules and adopt separate rules for  
7 the interstate common pools and their calculation of breakage;  
8 and

9 (2) except as otherwise provided in this  
10 section, New Mexico law or contracts governing the distribution  
11 of shares of the takeout for daily pari-mutuel tax or daily  
12 capital outlay tax and breeders' or other awards and purses  
13 shall remain in effect for amounts wagered within New Mexico in  
14 interstate common pools; provided that with the concurrence of  
15 the racetrack licensee of the host track and the organization  
16 representing a majority of the breeders, horsemen or other  
17 persons entitled to shares of the distribution, and subject to  
18 approval of the commission, the respective shares to breeders'  
19 or other awards or purses may be modified.

20 E. When the laws and rules of the host state and  
21 guest states permit, an interstate common pool may be  
22 established on a regional or other basis between two or more  
23 guest states and not include a merger into the host state's  
24 pari-mutuel wagering pool, in which case, one of the guest  
25 state's tracks shall serve as if it were the host track for the

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1 purposes of calculating the pari-mutuel wagering pool. An  
2 interstate common pool may include members located outside of  
3 the United States. Except as otherwise set forth in commission  
4 rules, participation by a person in an interstate common pool  
5 with wagering facilities in one or more states or jurisdictions  
6 shall not cause the participating person to be deemed to be  
7 doing business in a jurisdiction other than the jurisdiction in  
8 which that person is physically located.

9 F. The commission may adopt rules necessary to  
10 implement this section."

11 Section 18. A new Section 60-1A-18 NMSA 1978 is enacted  
12 to read:

13 "60-1A-18. [NEW MATERIAL] DAILY PARI-MUTUEL TAX--  
14 IMPOSED--RATE.--

15 A. The "daily pari-mutuel tax" is imposed on a  
16 racetrack licensee that offers pari-mutuel wagering at the  
17 racetrack licensee's licensed premises and shall be remitted to  
18 the taxation and revenue department for deposit in the general  
19 fund.

20 B. The daily pari-mutuel tax imposed on class A  
21 racetrack licensees pursuant to this section shall be:

22 (1) for each racing day a class A racetrack  
23 licensee offers pari-mutuel wagering on live on-track horse  
24 races, six hundred fifty dollars (\$650); provided, however,  
25 that a class A racetrack licensee shall deduct from the six

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1 hundred fifty dollars (\$650) and remit to the municipality in  
2 which the racetrack licensee is located one hundred fifty  
3 dollars (\$150) if the racetrack licensee is located in a  
4 municipality having a population according to the 2000 federal  
5 decennial census of:

6 (a) less than six thousand located in a  
7 county with a population of more than ten thousand but less  
8 than fifteen thousand; or

9 (b) more than eight thousand but less  
10 than ten thousand located in a county with a population of more  
11 than one hundred thousand but less than one hundred fifty  
12 thousand; and

13 (2) for each day a class A racetrack licensee  
14 offers no pari-mutuel wagering on live on-track horse races and  
15 offers solely pari-mutuel wagering on simulcast races pursuant  
16 to the Horse Racing Act, one-eighth percent of the racetrack  
17 licensee's gross daily handle, not to exceed three hundred  
18 dollars (\$300) per racing day.

19 C. The daily pari-mutuel tax imposed on a class B  
20 racetrack licensee pursuant to this section shall be:

21 (1) for each racing day a class B racetrack  
22 licensee offers pari-mutuel wagering on live on-track horse  
23 races, one-eighth percent of the racetrack licensee's gross  
24 daily handle, not to exceed three hundred dollars (\$300) per  
25 racing day; and

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1 (2) for each day a class B racetrack licensee  
2 offers no pari-mutuel wagering on live on-track horse races and  
3 offers solely pari-mutuel wagering on simulcast races pursuant  
4 to the Horse Racing Act, one-eighth percent of the class B  
5 racetrack licensee's gross daily handle, not to exceed three  
6 hundred dollars (\$300) per racing day."

7 Section 19. A new Section 60-1A-19 NMSA 1978 is enacted  
8 to read:

9 "60-1A-19. [NEW MATERIAL] RETAINAGE--NEW MEXICO HORSE  
10 BREEDERS' ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--  
11 BREAKAGE--DISTRIBUTION OF RETAINED AMOUNTS.--

12 A. Each racetrack licensee shall notify the  
13 commission at least thirty days prior to each race meet of the  
14 amount of exotic wager retainage that the racetrack licensee  
15 will retain pursuant to Paragraph (1) or (2) of this  
16 subsection. There shall be an amount retained by the racetrack  
17 licensee equal to:

18 (1) for a class A racetrack licensee:

19 (a) nineteen percent of the gross amount  
20 wagered on win, place and show, of which: 1) eighteen and  
21 three-fourths percent shall be retained by the racetrack  
22 licensee; and 2) one-fourth percent shall be remitted to the  
23 taxation and revenue department for deposit in the general  
24 fund; and

25 (b) not less than twenty-one percent and

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1 not greater than twenty-five percent of the gross amount  
2 wagered in exotic wagers; and

3 (2) for a class B racetrack licensee:

4 (a) not less than eighteen and three-  
5 fourths percent and not greater than twenty-five percent of the  
6 gross amount wagered daily on win, place and show; and

7 (b) not less than twenty-one percent and  
8 not greater than thirty percent of the gross amount wagered in  
9 exotic wagers.

10 B. There shall be retained by a racetrack licensee  
11 for allocation to the New Mexico horse breeders' association  
12 amounts equal to:

13 (1) five-eighths percent of the gross amount  
14 wagered on win, place and show to be allocated weekly to the  
15 New Mexico horse breeders' association for further distribution  
16 pursuant to the provisions of Subsection D of Section 60-1A-24  
17 NMSA 1978; and

18 (2) one and three-eighths percent of the gross  
19 amount wagered in exotic wagers to be allocated weekly to the  
20 New Mexico horse breeders' association for further distribution  
21 pursuant to the provisions of Subsection D of Section 60-1A-24  
22 NMSA 1978.

23 C. The breakage from the gross amount wagered  
24 through pari-mutuel wagering shall be retained by the licensee  
25 and allocated as follows:

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1                   (1) fifty percent of the total breakage shall  
2 be retained by the racetrack licensee; and

3                   (2) fifty percent of the total breakage shall  
4 be allocated by the racetrack licensee to enhance the race  
5 purses of established stakes races that include only New  
6 Mexico-bred horses that are registered with the New Mexico  
7 horse breeders' association. The New Mexico horse breeders'  
8 association shall distribute the percentage designated to  
9 purses pursuant to Subsection D of Section 60-1-24 NMSA 1978,  
10 subject to the approval of the commission.

11                   D. All money resulting from the failure of patrons  
12 who purchased winning pari-mutuel tickets during a race meet to  
13 redeem their winning tickets before the end of the sixty-day  
14 period immediately succeeding the closing day of the race meet  
15 or from all money resulting from the failure of patrons who  
16 purchased pari-mutuel tickets that were entitled to a refund  
17 but were not refunded by the end of the sixty-day period  
18 immediately following the race meet shall be apportioned as  
19 follows:

20                   (1) thirty-three and thirty-three hundredths  
21 percent shall be retained by the racetrack licensee;

22                   (2) thirty-three and thirty-four hundredths  
23 percent shall be distributed to the New Mexico horse breeders'  
24 association to enhance each racetrack licensee's established  
25 overnight purses for races that include only horses registered

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1 as New Mexico bred pursuant to Paragraph (3) of Subsection D of  
2 Section 60-1A-24 NMSA 1978, subject to the approval of the  
3 commission; and

4 (3) thirty-three and thirty-three hundredths  
5 percent shall be allocated to the New Mexico horsemen's  
6 association for purses.

7 E. One-half percent of the gross amount wagered on  
8 simulcast horse races broadcast to a horse racetrack in New  
9 Mexico shall be distributed by the racetrack licensee to the  
10 New Mexico horsemen's association. The commission shall by  
11 rule provide for the timing and manner of the distribution  
12 required pursuant to this subsection and shall audit or arrange  
13 for an independent audit of the distributions required. The  
14 distribution provided for in this subsection shall be made to  
15 the New Mexico horsemen's association and shall be used in the  
16 following manner:

17 (1) one-fourth percent of the gross amount  
18 wagered on simulcast horse races that is allocated in this  
19 subsection shall be used solely for medical benefits for the  
20 members of the New Mexico horsemen's association; and

21 (2) one-fourth percent of the gross amount  
22 wagered on simulcast horse races that is allocated in this  
23 subsection shall be used to enhance purses.

24 F. Amounts to be deducted from the retainage by the  
25 racetrack licensee from any form of wager made on the licensed

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1 premises of the racetrack licensee are:

2 (1) the daily pari-mutuel tax imposed by  
3 Section 60-1A-18 NMSA 1978;

4 (2) money allocated in this section to the New  
5 Mexico horse breeders' association;

6 (3) money allocated by this section to the New  
7 Mexico horsemen's association;

8 (4) expenses incurred to engage in intrastate  
9 simulcasting pursuant to the Horse Racing Act; provided that  
10 the deduction for a racetrack licensee shall be a portion of  
11 five percent of the gross amount wagered at all the sites  
12 receiving the same simulcast horse races and:

13 (a) the deduction for a racetrack  
14 licensee shall be an amount allocated to the racetrack licensee  
15 by agreement voluntarily reached between all the racetracks  
16 sending or receiving the same simulcast horse races; or

17 (b) the deduction for a racetrack  
18 licensee shall be an amount identified by the commission if all  
19 the racetracks sending or receiving the same simulcast horse  
20 races fail to reach a voluntary agreement on the level at which  
21 to set the rate of the deduction for expenses incurred for  
22 engaging in intrastate simulcasting; and

23 (5) fees incurred to receive interstate  
24 simulcasts pursuant to the Horse Racing Act.

25 G. A racetrack licensee shall allocate to the New

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1 Mexico horse breeders' association five percent of the daily  
2 retainage on interstate common pools received from a guest  
3 state by a racetrack licensee. Of the net retainage from  
4 interstate common pools wagered at off-site locations, after  
5 deduction of the allocation to the New Mexico horse breeders'  
6 association:

7 (1) fifty percent shall be allocated to  
8 purses; and

9 (2) fifty percent shall be retained by the  
10 racetrack licensee."

11 Section 20. A new Section 60-1A-20 NMSA 1978 is enacted  
12 to read:

13 "60-1A-20. [NEW MATERIAL] DAILY CAPITAL OUTLAY TAX--  
14 CAPITAL OUTLAY OFFSET--STATE FAIR COMMISSION DISTRIBUTION--  
15 DAILY LICENSE FEES.--

16 A. A "daily capital outlay tax" of two and three-  
17 sixteenths percent is imposed on the gross amount wagered each  
18 day at a racetrack where horse racing is conducted on the  
19 premises of a racetrack licensee and also on the gross amount  
20 wagered each day when a racetrack licensee is engaged in  
21 simulcasting pursuant to the Horse Racing Act. After deducting  
22 the amount of offset allowed pursuant to this section, any  
23 remaining daily capital outlay tax shall be paid by the  
24 commission to the taxation and revenue department from the  
25 retainage of a racetrack licensee from on-site wagers made on

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1 the licensed premises of the racetrack licensee for deposit in  
2 the general fund. Of the daily capital outlay tax imposed  
3 pursuant to this subsection:

4 (1) for a class A racetrack licensee, not more  
5 than one-half of the daily capital outlay tax imposed on the  
6 first two hundred fifty thousand dollars (\$250,000) of the  
7 daily handle may be offset by the amount that the class A  
8 racetrack licensee expends for capital improvements or for  
9 long-term financing of capital improvements at the racetrack  
10 licensee's existing facility;

11 (2) for a class B racetrack licensee, not more  
12 than one-half of the daily capital outlay tax imposed on the  
13 first two hundred fifty thousand dollars (\$250,000) of the  
14 daily handle may be offset:

15 (a) in an amount not to exceed one-half  
16 of the offset allowed, the amount expended by the class B  
17 racetrack licensee for capital improvements; and

18 (b) in an amount not to exceed one-half  
19 of the offset allowed, the amount expended by the class B  
20 racetrack licensee for advertising, marketing and promoting  
21 horse racing in the state; and

22 (3) for both class A and class B racetrack  
23 licensees, an amount equal to one-half of the daily capital  
24 outlay tax is appropriated and transferred to the state fair  
25 commission for expenditure on capital improvements at the state

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1 fairgrounds and for expenditure on debt service on negotiable  
2 bonds issued for the state fairgrounds' capital improvements.

3 B. An additional daily license fee of five hundred  
4 dollars (\$500) shall be paid to the commission by the racetrack  
5 licensee for each day of live racing on the premises of the  
6 racetrack licensee.

7 C. Accurate records shall be kept by the racetrack  
8 licensee to show gross amounts wagered, retainage, breakage and  
9 amounts received from interstate common pools and distributions  
10 from gross amounts wagered, retainage, breakage and amounts  
11 received from interstate common pools, as well as other  
12 information the commission may require. Records shall be open  
13 to inspection and shall be audited by the commission, its  
14 authorized representatives or an independent auditor selected  
15 by the commission. The commission may prescribe the method in  
16 which records shall be maintained. A racetrack licensee shall  
17 keep records that are accurate, legible and easy to understand.

18 D. Notwithstanding any other provision of law, a  
19 political subdivision of the state shall not impose an  
20 occupational tax on a horse racetrack owned or operated by a  
21 racetrack licensee. A political subdivision of the state shall  
22 not impose an excise tax on a horse racetrack owned or operated  
23 by a racetrack licensee. Local option gross receipts taxes  
24 authorized by the state may be imposed to the extent authorized  
25 and imposed by a subdivision of the state on a horse racetrack

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1 owned or operated by a racetrack licensee."

2 Section 21. A new Section 60-1A-21 NMSA 1978 is enacted  
3 to read:

4 "60-1A-21. [NEW MATERIAL] INABILITY TO RECEIVE OR  
5 ADMINISTER DISTRIBUTIONS--NEW MEXICO HORSE BREEDERS'  
6 ASSOCIATION--NEW MEXICO HORSEMEN'S ASSOCIATION--COMMISSION  
7 AUTHORITY--NEW MEXICO-BRED HORSE REGISTRY.--

8 A. In the event that money allocated to the New  
9 Mexico horse breeders' association pursuant to Section 60-1A-19  
10 NMSA 1978 cannot be received or administered by the New Mexico  
11 horse breeders' association, the commission or another  
12 organization designated by the commission and under the  
13 absolute control of the commission shall receive and administer  
14 the money that is allocated to be distributed by the New Mexico  
15 horse breeders' association pursuant to Section 60-1A-24 NMSA  
16 1978. If the commission or its designee organization is  
17 required to receive, administer and distribute money on behalf  
18 of the New Mexico horse breeders' association, the maximum  
19 percentage of retainage from Paragraph (3) of Subsection D of  
20 Section 60-1A-24 NMSA 1978 shall be distributed by the  
21 commission to the New Mexico horse breeders' association as a  
22 fee to certify the dam and stud of New Mexico-bred horses from  
23 the registry maintained by the New Mexico horse breeders'  
24 association.

25 B. In the event that money allocated to the New

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1 Mexico horsemen's association pursuant to the Horse Racing Act  
2 cannot be received or administered by the New Mexico horsemen's  
3 association, the commission or another organization designated  
4 by the commission and under the absolute control of the  
5 commission shall receive and administer the money that is  
6 allocated by Section 60-1A-19 NMSA 1978 to the New Mexico  
7 horsemen's association and distribute the money as required by  
8 Section 60-1A-19 NMSA 1978."

9 Section 22. A new Section 60-1A-22 NMSA 1978 is enacted  
10 to read:

11 "60-1A-22. [NEW MATERIAL] PAYMENT OF TAXES--PAYMENT OF  
12 LICENSE FEES.--

13 A. Taxes imposed pursuant to the Horse Racing Act  
14 shall be remitted to the commission, and a notice of the  
15 remittance shall accompany the taxes paid by a racetrack  
16 licensee by the close of the business day on Thursday of every  
17 week. Failure to make weekly remittances by the racetrack  
18 licensee shall result in an assessment by the commission  
19 against the racetrack licensee in an amount equal to one  
20 percent of the amount that was due to be submitted.

21 B. Fees for licenses issued by the commission shall  
22 be paid to the commission. Daily license fees imposed by  
23 Section 60-1A-20 NMSA 1978 shall be submitted to the commission  
24 by the racetrack licensee by the close of the business day on  
25 Thursday of each week of on-track or simulcast racing.

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1           C. Except for three thousand dollars (\$3,000) to be  
2 retained by the commission in the horse racing suspense fund,  
3 daily license fees and taxes shall be submitted by the  
4 commission to the taxation and revenue department on a date to  
5 be set by the taxation and revenue department that is no later  
6 than the twenty-fifth day of the month following the month in  
7 which the fees and taxes are received from a racetrack  
8 licensee."

9           Section 23. A new Section 60-1A-23 NMSA 1978 is enacted  
10 to read:

11           "60-1A-23. [NEW MATERIAL] HORSE RACING SUSPENSE  
12 ACCOUNT.--

13           A. The "horse racing suspense account" is created  
14 in the state treasury to hold funds remitted to the commission  
15 for payment of daily license fees, daily pari-mutuel tax and  
16 daily capital outlay tax.

17           B. Money in the horse racing suspense account  
18 exceeding three thousand dollars (\$3,000) shall be transferred  
19 to the taxation and revenue department for deposit in the  
20 general fund.

21           C. The money in the horse racing suspense account  
22 shall be used to pay claims for refunds of daily license fees,  
23 daily pari-mutuel tax or daily capital outlay taxes that have  
24 been determined by the commission to be legally due to the  
25 remitter."

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1           Section 24. A new Section 60-1A-24 NMSA 1978 is enacted  
2 to read:

3           "60-1A-24. [NEW MATERIAL] BREEDERS' AWARDS.--

4           A. The New Mexico horse breeders' association shall  
5 create a fund to pay horse breeders of New Mexico-bred horses  
6 merit and incentive awards.

7           B. A racetrack licensee shall pay into a fund  
8 created by the New Mexico horse breeders' association an amount  
9 equal to ten percent of the first money of a purse won, except  
10 for stakes-race purses, at a horse race in New Mexico by a  
11 horse registered with the New Mexico horse breeders'  
12 association as a New Mexico-bred horse. From stakes-race  
13 purses, a racetrack licensee shall pay into the fund created by  
14 the New Mexico horse breeders' association an amount equal to  
15 ten percent of the added money.

16           C. The money deposited with the New Mexico horse  
17 breeders' association by a racetrack licensee pursuant to  
18 Subsection B of this section shall be paid weekly to the owner  
19 of the dam of the horse at the time that the animal was foaled  
20 upon certification of the commission and the New Mexico horse  
21 breeders' association.

22           D. In addition to the money distributed pursuant to  
23 Subsection B of this section, the New Mexico horse breeders'  
24 association shall distribute the money allocated to the New  
25 Mexico horse breeders' association pursuant to Subsections B, C

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1 and D of Section 60-1A-19 NMSA 1978 in the following manner and  
2 pursuant to rules adopted by the commission:

3 (1) forty-five percent of the money to the  
4 owners at the time the winners were foaled of the dams of the  
5 first-place winners;

6 (2) seven percent of the money to the owners  
7 at the time the winners were foaled of the studs that sired the  
8 first-place winners;

9 (3) no more than eight percent of the money to  
10 be retained by the New Mexico horse breeders' association for  
11 the purpose of administering the distribution program set forth  
12 in this section; and

13 (4) the remaining money to be divided among  
14 the first-, second- and third-place finishers during each race  
15 meet, provided that the first-, second- and third-place  
16 finishers are registered as New Mexico-bred horses with the New  
17 Mexico horse breeders' association.

18 E. The New Mexico horse breeders' association shall  
19 file a fiduciary bond with the commission in a face amount  
20 equal to the total money distributed during the previous  
21 calendar year pursuant to Subsection C of this section. The  
22 bond shall be executed by a surety company authorized to do  
23 business in New Mexico; provided that the fiduciary bond shall  
24 be in an amount not less than two million dollars  
25 (\$2,000,000)."

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1           Section 25. A new Section 60-1A-25 NMSA 1978 is enacted  
2 to read:

3           "60-1A-25. [NEW MATERIAL] VIOLATIONS OF HORSE RACING  
4 ACT--FOURTH DEGREE FELONY.--A person who willfully violates,  
5 attempts to violate or conspires to violate a requirement of  
6 the Horse Racing Act or a prohibition specifically set forth in  
7 the Horse Racing Act is guilty of a fourth degree felony and  
8 shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978."

10           Section 26. A new Section 60-1A-26 NMSA 1978 is enacted  
11 to read:

12           "60-1A-26. [NEW MATERIAL] ILLEGAL USE OF PARI-MUTUEL  
13 WAGERING.--

14           A. A person shall not use pari-mutuel wagering  
15 except as permitted by the commission pursuant to the Horse  
16 Racing Act or pursuant to other state law providing licensing  
17 of persons to use pari-mutuel wagering.

18           B. A person who, directly or indirectly, uses pari-  
19 mutuel wagering in a manner that is not authorized by the  
20 commission or other state law is guilty of a fourth degree  
21 felony and upon conviction shall be sentenced pursuant to  
22 Section 31-18-15 NMSA 1978."

23           Section 27. A new Section 60-1A-27 NMSA 1978 is enacted  
24 to read:

25           "60-1A-27. [NEW MATERIAL] PREDETERMINING HORSE RACES--

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1 INFLUENCING OR ATTEMPTING TO INFLUENCE--FOURTH DEGREE FELONY.--

2 A. A person shall not influence or attempt to  
3 influence the outcome of a horse race by offering money, a  
4 thing of value, a future benefit, a favor, preferred treatment  
5 or a form of pressure or threat.

6 B. A person shall not enter into an agreement with  
7 an owner, jockey, groom or any other person associated with or  
8 having an interest in a racehorse to predetermine the outcome  
9 of a horse race.

10 C. A person who influences or attempts to influence  
11 the outcome of a horse race or a person who enters into an  
12 agreement to predetermine the outcome of a horse race is guilty  
13 of a fourth degree felony and upon conviction shall be  
14 sentenced pursuant to Section 31-18-15 NMSA 1978."

15 Section 28. A new Section 60-1A-28 NMSA 1978 is enacted  
16 to read:

17 "60-1A-28. [NEW MATERIAL] AFFECTING SPEED OR STAMINA OF A  
18 RACE HORSE--PENALTIES.--

19 A. A person administering, attempting to administer  
20 or conspiring with others to administer to a racehorse a drug,  
21 chemical, stimulant or depressant or other foreign substances  
22 not naturally occurring in a racehorse whether internally,  
23 externally or by injection for the purpose of stimulating or  
24 depressing the race horse or affecting the speed or stamina of  
25 the race horse during a horse race or workout is guilty of a

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1 fourth degree felony and upon conviction shall be sentenced  
2 pursuant to Section 31-18-15 NMSA 1978."

3 B. A person who uses, attempts to use or conspires  
4 with others to use during a horse race or workout an  
5 electrically or mechanically prohibited device, implement or  
6 instrument, other than an ordinary whip, is guilty of a fourth  
7 degree felony and upon conviction shall be sentenced pursuant  
8 to Section 31-18-15 NMSA 1978.

9 C. A person who sponges the nostrils or trachea of  
10 a racehorse or who uses anything to injure a racehorse for the  
11 purpose of stimulating or depressing the racehorse or affecting  
12 the speed or stamina of the racehorse during a horse race or  
13 workout is guilty of a fourth degree felony and upon conviction  
14 shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

15 D. It is prima facie evidence of intent to commit  
16 any of the crimes set forth:

17 (1) in Subsection A of this section for a  
18 person to be found within the racing grounds of a racetrack  
19 licensee, including the stands, stables, sheds or other areas  
20 where racehorses are kept, who possesses with the intent to  
21 use, sell, give away or otherwise transfer to another person a  
22 drug, chemical, stimulant or depressant or other foreign  
23 substance not naturally occurring in a racehorse to stimulate  
24 or depress a racehorse or to affect the speed or stamina of a  
25 racehorse;

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1                   (2) in Subsection B of this section for a  
2 person to be found within the racing grounds of a racetrack  
3 licensee, including the stands, stables, sheds or other areas  
4 where racehorses are kept, who possesses with the intent to  
5 use, sell, give away or otherwise transfer to another person an  
6 electrically or mechanically prohibited device, implement or  
7 instrument, other than an ordinary whip; and

8                   (3) in Subsection C of this section for a  
9 person to be found within the racing grounds of a racetrack  
10 licensee, including the stands, stables, sheds or other areas  
11 where racehorses are kept, who possesses with the intent to  
12 use, sell, give away or otherwise transfer to another person  
13 paraphernalia or substances used to sponge the nostrils or  
14 trachea of a racehorse or that may be used to injure a  
15 racehorse for the purpose of stimulating or depressing the  
16 racehorse or affecting its speed or stamina during a horse race  
17 or workout."

18                   Section 29. A new Section 60-1A-29 NMSA 1978 is enacted  
19 to read:

20                   "60-1A-29. [NEW MATERIAL] TERMINATION OF AGENCY LIFE--  
21 DELAYED REPEAL.--The state racing commission is terminated on  
22 July 1, 2011 pursuant to the Sunset Act. The commission shall  
23 continue to operate according to the provisions of Chapter 60,  
24 Article 1A NMSA 1978 until July 1, 2012. Effective July 1,  
25 2012, Chapter 60, Article 1A NMSA 1978 is repealed."

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1           Section 30. Section 60-2E-7 NMSA 1978 (being Laws 1997,  
2 Chapter 190, Section 9, as amended) is amended to read:

3           "60-2E-7. BOARD'S POWERS AND DUTIES.--

4           A. The board shall implement the state's policy on  
5 gaming consistent with the provisions of the Gaming Control Act  
6 and the Bingo and Raffle Act. It has the duty to fulfill all  
7 responsibilities assigned to it pursuant to those acts, and it  
8 has all authority necessary to carry out those  
9 responsibilities. It may delegate authority to the executive  
10 director, but it retains accountability. The board is an  
11 adjunct agency.

12           B. The board shall:

- 13                   (1) employ the executive director;
- 14                   (2) make the final decision on issuance,  
15 denial, suspension and revocation of all licenses pursuant to  
16 and consistent with the provisions of the Gaming Control Act  
17 and the Bingo and Raffle Act;

18                   (3) develop, adopt and promulgate all  
19 regulations necessary to implement and administer the  
20 provisions of the Gaming Control Act and the Bingo and Raffle  
21 Act;

22                   (4) conduct itself, or employ a hearing  
23 officer to conduct, all hearings required by the provisions of  
24 the Gaming Control Act and other hearings it deems appropriate  
25 to fulfill its responsibilities;

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- 1 (5) meet at least once each month; and  
2 (6) prepare and submit an annual report in  
3 December of each year to the governor and the legislature,  
4 covering activities of the board in the most recently completed  
5 fiscal year, a summary of gaming activities in the state and  
6 any recommended changes in or additions to the laws relating to  
7 gaming in the state.

8 C. The board may:

9 (1) impose civil fines not to exceed  
10 twenty-five thousand dollars (\$25,000) for the first violation  
11 and fifty thousand dollars (\$50,000) for subsequent violations  
12 of any prohibitory provision of the Gaming Control Act or any  
13 prohibitory provision of a regulation adopted pursuant to that  
14 act;

15 (2) conduct investigations;

16 (3) subpoena persons and documents to compel  
17 access to or the production of documents and records, including  
18 books and memoranda, in the custody or control of a licensee;

19 (4) compel the appearance of employees of a  
20 licensee or persons for the purpose of ascertaining compliance  
21 with provisions of the Gaming Control Act or a regulation  
22 adopted pursuant to its provisions;

23 (5) administer oaths and take depositions to  
24 the same extent and subject to the same limitations as would  
25 apply if the deposition were pursuant to discovery rules in a

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1 civil action in the district court;

2 (6) sue and be sued subject to the limitations  
3 of the Tort Claims Act;

4 (7) contract for the provision of goods and  
5 services necessary to carry out its responsibilities;

6 (8) conduct audits, relevant to their gaming  
7 activities, of applicants, licensees and persons affiliated  
8 with licensees;

9 (9) inspect, examine, photocopy and audit all  
10 documents and records of an applicant or licensee relevant to  
11 [~~his~~] the applicant's or licensee's gaming activities in the  
12 presence of the applicant or licensee or [~~his~~] the applicant's  
13 or licensee's agent;

14 (10) require verification of income and all  
15 other matters pertinent to the gaming activities of an  
16 applicant or licensee affecting the enforcement of any  
17 provision of the Gaming Control Act;

18 (11) inspect all places where gaming  
19 activities are conducted and inspect all property connected  
20 with gaming in those places;

21 (12) summarily seize, remove and impound from  
22 places inspected any gaming devices, property connected with  
23 gaming, documents or records for the purpose of examination or  
24 inspection;

25 (13) inspect, examine, photocopy and audit

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1 documents and records, relevant to ~~his~~ the affiliate's gaming  
2 activities, of ~~any~~ an affiliate of an applicant or licensee  
3 that the board knows or reasonably suspects is involved in the  
4 financing, operation or management of the applicant or  
5 licensee. The inspection, examination, photocopying and audit  
6 shall be in the presence of a representative of the affiliate  
7 or its agent when practicable; ~~and~~

8 (14) conduct background investigations  
9 pursuant to the Horse Racing Act; and

10 ~~(14)~~ (15) except for the powers specified in  
11 Paragraphs (1) and (4) of this subsection, carry out all or  
12 part of the foregoing powers and activities through the  
13 executive director.

14 D. The board shall monitor all activity authorized  
15 in an Indian gaming compact between the state and an Indian  
16 nation, tribe or pueblo. The board shall appoint the state  
17 gaming representative for the purposes of the compact."

18 Section 31. TEMPORARY PROVISIONS.--

19 A. Members of the state racing commission who are  
20 on the commission on June 30, 2007 shall remain on the state  
21 racing commission and complete the terms to which they were  
22 appointed, or if the member's term expires on June 30, 2007,  
23 until a replacement is appointed.

24 B. All personnel, records, equipment, supplies and  
25 other property of the state racing commission on June 30, 2007

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1 shall remain the personnel, records, equipment, supplies and  
2 property of the state racing commission created in this 2007  
3 act.

4 C. Appropriations to and money held by or for the  
5 state racing commission that does not revert to the general  
6 fund or another fund on June 30, 2007 shall continue on July 1,  
7 2007 to be held by or for the state racing commission created  
8 in this 2007 act.

9 Section 32. REPEAL.--Sections 60-1-1 through 60-1-26 NMSA  
10 1978 (being Laws 1933, Chapter 55, Section 1, Laws 1977,  
11 Chapter 245, Section 123, Laws 1933, Chapter 55, Section 2,  
12 Laws 1955, Chapter 87, Section 2, Laws 1973, Chapter 323,  
13 Sections 3 and 4, Laws 1991, Chapter 7, Section 1, Laws 1933,  
14 Chapter 55, Sections 3 through 7, Laws 1973, Chapter 323,  
15 Section 7, Laws 1975, Chapter 189, Section 1, Laws 1933,  
16 Chapter 55, Sections 8 and 9, Laws 1992, Chapter 110, Section  
17 2, Laws 1993, Chapter 300, Section 1, Laws 1933, Chapter 55,  
18 Section 10, Laws 1977, Chapter 161, Section 2, Laws 1965,  
19 Chapter 270, Section 1, Laws 1933, Chapter 55, Section 11, Laws  
20 1947, Chapter 94, Sections 1 and 2, Laws 1975, Chapter 190,  
21 Section 1, Laws 1973, Chapter 323, Sections 10 and 11, Laws  
22 1991, Chapter 195, Sections 6 and 4 and Laws 1987, Chapter 333,  
23 Section 3, as amended) are repealed.

24 Section 33. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2007.

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